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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,450	07/06/2005	Tsuyoshi Nakamura	KAS-248	8228
24956 7590 03/06/2008 MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				
EXAMINER VANAMAN, FRANK BENNETT				
ART UNIT		PAPER NUMBER		
3618				
MAIL DATE		DELIVERY MODE		
03/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,450

Applicant(s)

NAKAMURA ET AL.

Examiner

Frank B. Vanaman

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 7/6/05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. Figures 7 and 13 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated, as understood from both the brief description of the drawings and the later portions of the specification directed to these figures. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because it contains numerous instances of the term "means" which should be avoided (like other legal phraseology) in an abstract (line 1: "input means"; line 2, "detection means"; line 4, "traveling means", etc.). Correction is required. See MPEP § 608.01(b).
4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3618

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Okui et al. (JP 3-286045, cited by applicant). Okui et al. teach a traveling working machine and controller, the system including at least one prime mover (2), a machine body (1) on which is mounted the prime mover, traveling means (including elements 3-10), which includes a torque converter (3) connected to the prime mover, and a hydraulic pump (14) driven by the prime mover, at least one working actuator (12) operated by fluid supplied from the pump, an operating device (17) which generates a signal in the form of a change in pressure supply for controlling the actuator (12), input means (24) for commanding a target revolution speed of the prime mover (2), a first detection means (36) which detects an operation state of the actuator (in this case by measuring a condition in the actuator line, which condition corresponds to the output signal generated by the operating device), a second detection means (35) for detecting a 'situation' of the traveling means (in this case, the output of the torque converter), and a prime mover speed control modifying means (25, 27) for modifying the speed of the prime mover based on the operation characteristics determined by the first and second detection means (35, 36).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okui et al. (cited above). Okui et al. teach a traveling working machine and controller, the system including at least one prime mover (2), a machine body (1) on which is mounted the prime mover, traveling means (including elements 3-10), which includes a torque converter (3) connected to the prime mover, and a hydraulic pump (14) driven by the prime mover, at least one working actuator (12) operated by fluid supplied from the pump, an operating device (17) which generates a signal in the form

of a change in pressure supply for controlling the actuator (12), input means (24) for commanding a target revolution speed of the prime mover (2), a first detection means (36) which detects an operation state of the actuator (in this case by measuring a condition in the actuator line, which condition corresponds to the output signal generated by the operating device), a second detection means (35) for detecting a 'situation' of the traveling means (in this case, the output of the torque converter), and a prime mover speed control modifying means (25, 27) for modifying the speed of the prime mover based on the operation characteristics determined by the first and second detection means (35, 36), wherein a condition associated with states of the actuator and traveling means as detected by the first and second detection means (abstract, lines 11, 12, 14-16, note the 'combined stall' condition), then the target revolution speed of the prime mover is reduced. The reference as best understood by the examiner (i.e., from the drawings and translation of the abstract) fails to explicitly teach that the first detection means (36) measures a pressure. Hydraulic pressure measurement in vehicles which include hydraulic systems is very old and well known, and in that Okui et al. already teach a detection means (36) in association with a hydraulic line, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the first detection means taught by Okui et al. as a pressure sensor for the purpose of employing a commonly available pressure transducer.

As regards claim 5, the reference to Okui et al. as best understood fails to explicitly set forth a computed revolution speed to be reduced from the speed of the prime mover, although the reference does anticipate decreasing the speed of the prime mover (see abstract lines 13-17 and 17-19). In that the reference specifically teaches a speed reduction, it would have been obvious to one of ordinary skill in the art at the time of the invention to explicitly compute a quantity of speed reduction of the prime mover so as to control the magnitude of speed reduction at the time when the prime mover speed is decreased (abstract lines 17-19).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okui et al. in view of Okada et al. (US 5,983,151). The reference to Okui et al. is discussed above and fails to teach the second detection means as being means which can detect both

input and output speeds of the torque converter. Okada et al. teach that it is well known in the operation of vehicles having both hydraulic actuators and a torque converter to measure both engine output speed (through sensor 2) and torque converter (3) output speed (through sensor 4) and to determine a ratio (N_t/N_e) of engine and torque converter speeds (e). It would have been obvious to one of ordinary skill in the art at the time of the invention to measure both the input and output speed of the torque converter as taught by Okui et al. and form a ratio as suggested by the dual measurement and torque converter speed ratio measurement and calculation as taught by Okada et al. in order to provide a variable which takes into account a measured speed of the engine as well as the torque converter output itself, for the purpose of providing a more accurate indication of a stall condition.

Comment on the application of the Reference to Okui et al.

10. At the time of writing of this office action, the examiner is not in possession of a complete translation of the reference to Okui et al., cited by applicant in July of 2005 and applied herein. The examiner has requested a translation of the document. At such time as the complete translation becomes available the claims may be subject to modified grounds of rejections based on the information in the translation.

Allowable Subject Matter

11. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanai et al. (US 4,846,046), Kime et al. (US 4,898,333), Nakagami et al. (US 5,694,317), Nakamura et al. (US 5,911,506), Yamamoto et al. (US 5,984,018), Orbach et al. (US 6,016,875), Rocke et al. (US 6,321,153), and Budde (US 6,879,899) teach control arrangements of pertinence.

13. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Art Unit: 3618

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

/Frank B Vanaman/
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